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ABSTRACT

The research project reported in this paper sought to discover what, if any, factors present among school boards and court decisions appeared to be associated with the degree to which school boards responded to court decisions. The study, in an effort to assess the impact of the courts on local school boards, also asked whether school boards not directly involved in specific litigation generally ignore the legal directives of the courts. Using two random samples of school boards in California and six carefully selected court decisions, the researcher found that there did not appear to be any personnel or decision-related variables that were associated with the level or rate of response to the courts. Moreover, it was found that there was less than a 4 percent response rate by the sampled local boards to a variety of court decisions, which may indicate that local boards do, in fact, tend to ignore the legal directives of the courts. The research suggests that the impact of the courts on local school boards may be far more limited than one might assume, given the general tone and content of earlier research and the current rhetoric of schoolmen. (Author)

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# Institute for Research on Educational Finance and Governance

SCHOOL OF EDUCATION STANFORD UNIVERSITY

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# AN ASSESSMENT OF THE IMPACT OF THE COURTS ON LOCAL SCHOOL BOARDS

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AN ASSESSMENT OF THE IMPACT OF THE COURTS ON
LOCAL SCHOOL BOARDS


## Abstract

The research project reported in this paper sought to discover what, if any, factors present among school boards and court decisions appeared to be associated with the degree to which school boards responded to court decisions. The study, in an effort to assess the impact of the courts on local school boards, also asked whether school boards, not directly involved in specific litigation, generally ignore the legal directives of the courts.

Using two random samples of school boards in California and six carefully-selected court decisions, the researcher found that there did not appear to be any personnel or decision related variables which were associated with the level or rate of response to the courts. Moreover, it was found that there was less than a four percent response rate by the sampled local boards to a variety of court decisions which may indicate that local boards do, in fact, tend to ignore the legal directives for the courts.

The research suggests that the impact of the courts on local school boards may be far more limited than one might assume given the general tone and content of earlier research and the current rhetoric of schoolmen.



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Not long ago the school board of a district in southern California produced a pamphlet enumerating many of the new judicial and legislative constraints placed on the power of local school boards.[1] The tone of the pamphlet was one of belligerent indignation. The authors decried outside interference and singled out the courts as a prime mover in the erosion of the rights of local school personnel to govern the community schools.

Such anti-judicial sentiment has been echoed by schoolmen, writers, and interested citizens not only in California but across the nation. The unifying theme is clear; activities of courts in recent years have infringed upon the constitutionally guaranteed power of professional educators, duly elected citizens, and the taxpaying body politic to govern the public schools of this land. Since Brown in 1954, continue the anti-court arguments, a progression of "robed school boards" has poured forth rules and guidelines on policy related issues: student discipline, bilingual education, ability tracking, testing, aid to parochial schools, religion in the classrooms, school finance, and student expression. With each decree came more rules and, consequently, further constraints on the freedom of local school personnel to govern their schools.

A substantial body of research has tended to support the observations of these critics of the courts. Case studies abound of judicial intervention in the nationwide conduct of public education. In each case, the courts, with varying degrees of success, assumed a leading role in directing the conduct of an important aspect of public education. We are left with a

strong impression that the courts have assumed a new and increaseingly activist role in the area of public education, a role which seems to be unaffected by state boundaries.

The courts have become more involved with matters relating to the day-to-day operation of the schools. What is still unclear, however, is whether the pronouncements of the courts have manifested themselves in altered behavior by local school personnel. Put another way, while we concede that the courts have made many school related rulings, we do not know the extent to which those rulings have been complied with at the local level. If we accept the rhetoric of school personnel, however, we ought to expect a high rate of compliance to the legal directives of the courts.

In an effort to undertake such an assessment, a research project was begun at the Stanford University School of Education, supported by the Institute of Finance and Governance (an NIE research center). In essence, the research addressed three major questions:

1. What, if any, personnel-related variables among school board and/or district superintendents appear to be related to the level of compliance with the legal directives of the courts?

2. What, if any, decision-related variables appear to be related to the rate of compliance with the legal directives of the courts among school boards?

3. Do school boards generally ignore the legal directives of the courts?

The questions were arrayed in this manner because the designers of the research were influenced strongly by the literature proclaiming the courts' profound impact on the governance of the public schools. The

researchers assumed that most school boards attended to the legal directives of the courts. Consequently, important findings were expected from the first two research questions.

The initial question dealing with the effects of personnel-related variables on the degree of response by school boards to a court decision was tested using 50 randomly selected unified school district boards in California, a state having a court system that is highly active around educational issues. Demographic and attitudinal data were obtained from the sample districts along with each district's response to Bright v. Los Angeles Unified School District, a 1976 decision by the California Supreme Court that involved school policies with respect to student expression.[2] What the research sought to discover was whether demographic and attitudinal factors of board members were related to a district's response to the decision. Of the 36 responding districts, not one showed any evidence that it had been affected by the Bright decision, in spite of the fact that the California Education Code mandates that each district promulgate explicit policies regarding student expression in the schools.[3] With no variance in the level of compliance to the court directive, it was not possible for the researchers to estimate the effects of personnel-related factors on compliance behavior.

This result led to the tentative conclusion that perhaps there was something in court decisions themselves that held the key to understanding compliance behavior of school boards. The second research question addressed this possibility. Through five carefully selected court decisions,[4] the researchers attempted to assess whether certain kinds of court decisions led

to greater response rates by school districts than others. It was felt that perhaps the earlier result of non-compliance with Bright was caused by something associated with the particular decision.

Ten districts in the San Francisco Bay Area were visited in order to uncover evidence of response to each of the five selected court decisions. Again, the findings were surprising. Out of 50 possible responses to the five richly varied mandates of the courts, only two examples of district response were found. Thus, it would only be concluded that decision-related variables did not appear to be associated with the rate of compliance to court directives by local school boards.

In the process of addressing the research questions dealing with the effects of personnel and decision-related variables on the level or rate of compliance by local school boards, the final question was explored. That research question asked, "Do school boards generally ignore the legal directives of the courts?" From the combined sample of 46 school districts surveyed in the study, out of a possible 96 opportunities for boards to respond to the courts, only two districts did so. In this sample then, the overwhelming proportion of local school boards did, in fact, appear to disregard the legal directives of the courts. Such a finding seems to offer a strong challenge to those who claim that the courts are running the schools. It also suggests that court decreed implementation shares the problems of implementation uncovered by studies of the federal ESEA.

Another view on the impact of the courts, however, is that courts, through their rulings, set the tone and content of state legislation. The most profound impact of the judiciary on schools in this view, is indirect. This idea was also explored. While the rate of local school board compliance

to state level action (legislation and regulations) designed to implement a court decision was higher than the response rate to court decrees without follow-up state action, the local response rate was still less than 50 percent.

Included in the research are a number of secondary findings and recommendations for further study. There are observations about the causes of the high rate of non-response to the courts by local school boards. The role of enforcement organizations, the channels of legal information available to school districts, the legal competencies of district personnel, and the abilities of judges to fully comprehend the implications of their decisions from a management perspective were explored.

The findings of the Stanford research project suggested a different picture from much of the writing of schoolmen and researchers alike. The impact of the courts, in the absence of state level supportive action, was minimal. Even with state level action, the response rate of school districts to court mandates was still limited. There was little evidence that local school boards altered their policies to conform to court directives in situations where the school district was not named a party to the litigation, but where the principles of law or policy embodied in the text of the decision had general policy implications.

## FOOTNOTES

1. Torrance Unified School District and Board of Education, "Impact of State and Federal Laws and Court Decisions on Local School Districts" (Torrance, CA, December 12, 1977). Mimeograph.

2. Susannah Bright, a high school student was prevented by school authorities from distributing a newspaper produced independently of the school system. The administration's position was that the paper contained libelous or "potentially libelous" material. Bright litigated her case only to be denied relief by the Superior Court. On appeal to the California Supreme Court, however, Bright's claims were substantially supported. The essence of the Bright decision was subsequently embodied in SB 357 which took effect on June 1, 1978 as an amendment to Section 48916 of the California Education Code. The decision and the law which followed struck down systems of prior restraint with respect to student expression in the schools and substantially reduced the capacity of administrators to control the content and distribution of student produced literature on school grounds (18 C.3d 450, 1976).

3. California Education Code, Chapter 1010, Statutes of 1976, Section 48916.

4. Crawford v. Los Angeles Board of Education (17C 3d 280, 1976).

   Goss v. Lopez (95 S.ct 729, 1975).

   Larry P. v. Riles (343 F.Supp. 1306, N.D. Cal., 1972).

   Wolman v. Walter (97 S.Ct. 2593, 1977).